

DISTRICT OF OREGON, ss: AFFIDAVIT OF WESLEY S. ELLIS

Affidavit in Support of a Criminal Complaint and Arrest Warrant

I, Wesley S. Ellis, being duly sworn, do hereby depose and state as follows:

Introduction and Agent Background

1. I am a Special Agent (SA) with the United States Department of Homeland Security, Homeland Security Investigations (HSI) where I have been since August 2020. As a SA with HSI, I have received training from the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia, graduating from the Criminal Investigator Training Program (CITP) and the Homeland Security Investigations Special Agent Training Program. I am a law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18, United States Code, and I am authorized by law to conduct investigations and to make arrests for felony offenses. Prior to becoming a SA with HSI, I worked for 12 years as a Border Patrol Agent (BPA).

2. I submit this affidavit in support of a criminal complaint and arrest warrant for Nicholas James SHAW (hereinafter "SHAW"), date of birth XX/XX/1986, for violations of Title 18, United States Code, Sections 2252A(a)(1), (a)(2), and (a)(5)(B), receipt, distribution, possession and access with intent to view child pornography. As set forth below, there is probable cause to believe, and I do believe, that SHAW committed violations of the aforementioned United States Code.

Applicable Law

3. Title 18, United States Code, Section 2252A(a)(1) makes it a crime to knowingly transport child pornography using any means or facility of interstate or foreign commerce, or in or affecting interstate or foreign commerce by any means, including by computer.

4. Title 18, United States Code, Section 2252A(a)(2) makes it a crime to knowingly receive or distribute any child pornography that has been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer.

5. Title 18, United States Code, Section 2252A(a)(5)(B) makes it a crime to knowingly possess or access with intent to view child pornography that has been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer, or that was produced using materials that were mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer.

6. Title 18, United States Code, Sections 2252(b)(1) and (b)(2), makes it a crime to attempt to transport, receive, distribute, possess and access with Intent to view child pornography

Statement of Probable Cause

7. On June 21, 2022, the Honorable United States Magistrate Judge Mark D. Clarke signed a search warrant authorizing Homeland Security Investigations (HSI) and the Southern Oregon Child Exploitation Team (SOCET) to search the residence of SHAW for violations of 18 U.S.C. §§ 2252A(a)(1), (a)(2), and (a)(5)(B).

8. The application for the search warrant was based CyberTips from Snapchat and Kik involving child sexual exploitation material being uploaded to their servers in October 2021, November 2021, and April 2022. HSI received two CyberTips from Snapchat and one from Kik. In total, 18 files of child sexual exploitation material were uploaded through the social media platforms. The CyberTips reported that the Electronic Service Providers (ESP) viewed the entire contents of each uploaded file.

9. On or about March 21, 2022, I reviewed the uploaded files to confirm the files

contained child exploitation material. One file contained a video labeled be66eadf-505e-4603-85c1-07d2d23b6690.mp4 that is 3,078 KB in size and 43 seconds in length. The video also contains sound. The video shows an adult male sitting on a chair with what appears to be a prepubescent female on her knees between his legs. The girl is wearing underwear but is topless. The male has his hand on the back of the child's head and is orally sodomizing her with his penis. At one point the child pulls her head away from the man's penis and the male pulls her head back to his penis with both hands and continues to sodomize her. At around 26 seconds, the female is stood up by the male. He removes her panties and masturbates with her standing in front of him between his legs.

10. Subpoena returns from Charter Communications, AT&T, and Pacific Power identified SHAW as the user of the accounts and confirmed his residential address. The Snapchat CyberTips contained a cell phone number that, based on the AT&T subpoena return, is subscribed to by SHAW. The Cybertips also contained IP addresses that belonged to Charter Communications. The Charter IP addresses return to SHAW's residence. The email SHAW used for his AT&T account is the same email used on the Kik account in the CyberTip. The email SHAW used for his Pacific Power account is the same email used for the Snapchat account in the CyberTip. Surveillance operations by HSI special agents showed that SHAW resided at the aforementioned address.

11. On June 28, 2022, HSI Special Agent Caleb Michaud and Medford Police Officer Lipscomb contacted the individual at the corner of Newtown Street and Main Street in Medford Oregon. The subject was identified as SHAW and he was taken into temporary custody and escorted to his residence for execution of the search warrant. SHAW did not give consent to

search any devices and initially declined to provide passwords.

12. SHAW was read his Miranda Rights and stated he understood those rights. SHAW agreed to speak with me and Special Agent David Schroeder. SHAW claimed to have lived at the address for ten years. He stated he lives alone and is the only person that has access to his digital devices. He claimed that his Wi-Fi is password protected and that he is the only one that has access to it. SHAW provided passwords for his cell phone, computer, and tablet. SHAW admitted to downloading and sharing child pornography and admitted that we would find that type of material on his phone, computer, and tablet, as well as an external hard drive that he stored most of his collected material on. SHAW claimed to get most of his child pornography from a website he accesses through the TOR browser and admitted to sharing that type of material on Snapchat. SHAW said he got into child pornography a couple years ago and prefers material of preteen females.

13. During the interview SHAW admitted to having a relationship with a 14-year-old female (MV1) who lives in Oregon. He stated that he has not had physical contact with MV1, but that they exchanged nude and sexually explicit videos and pictures of each other. He claimed they have been doing this for approximately eight months. He stated they exchanged videos and images through Snapchat. Snapchat is headquartered in California and has servers in that state. Its main domain server is located in California. When content is shared through social media platforms it is routed through servers owned or leased by that platform. In the case of Snapchat, videos and images would most likely be routed through California. Depending on router congestion and traffic, the images and videos may route through other states before being routed through the California Server.

14. A cursory search of SHAW's iPhone revealed numerous nude photos and videos of a young adolescent female matching the description of MV1. When shown one of the photos, SHAW admitted that it was MV1. The cursory search revealed photos and videos of MV1 that were sexually explicit in nature including MV1 engaged in masturbation with a dildo. SHAW did not know the last name of MV1, but was able to roughly point out where she lives on Google Maps.

Conclusion

15. Based on the foregoing, I have probable cause to believe, and I do believe, that SHAW committed violations of Title 18, United States Code, Sections 2252A(a)(1), (a)(2), and (a)(5)(B), receipt, distribution, possession and access with intent to view child pornography, and Title 18, United States Code, Sections 2252(b)(1) and (b)(2), attempt to transport, receive, distribute, possess and access with Intent to view child pornography.

16. Prior to being submitted to the Court, this affidavit, the accompanying complaint and the arrest warrant were all reviewed by Assistant United States Attorney (AUSA) John Brassell, and AUSA Brassell advised me that in his opinion the affidavit and complaint are legally and factually sufficient to establish probable cause to support the issuance of the requested criminal complaint and arrest warrant.

S/ Wesley Ellis

Wesley Ellis
Special Agent, HSI

Sworn in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone at 11:30
a.m./p.m. on 6/29/22.

MARK D. CLARKE
United States Magistrate Judge